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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

THE GREAT ATLANTIC & PACIFIC TEA
COMPANY, Inc., *et al.*,¹

Debtors.

THE GREAT ATLANTIC & PACIFIC TEA
COMPANY, INC., *et al.*,
Plaintiffs,

v.

PEPSICO, INC., *et al.*,
Defendants.

Chapter 11

Case No. 15-23007-RDD

Jointly Administered

Adv. Proc. No. 18-08245-RDD

**NOTICE OF DEFENDANTS'
MOTION FOR LEAVE TO APPEAL**

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law in Support, dated January 16, 2020, and the Declaration of Joseph D. Frank, dated January 16, 2020, together

¹ The Debtors are: 2008 Broadway, Inc.; The Great Atlantic & Pacific Tea Company, Inc.; A&P Live Better, LLC; A&P Real Property, LLC; APW Supermarket Corporation; APW Supermarkets, Inc.; Borman's, Inc.; Delaware County Dairies, Inc.; Food Basics, Inc.; Kwik Save Inc.; McLean Avenue Plaza Corp.; Montvale Holdings, Inc.; Montvale-Para Holdings, Inc.; Onpoint, Inc.; Pathmark Stores, Inc.; Plainbridge LLC; Shopwell, Inc.; Super Fresh Food Markets, Inc.; The Old Wine Emporium of Westport, Inc.; Tradewell Foods of Conn., Inc.; and Waldbaum, Inc.

with the exhibits annexed thereto, Defendants PepsiCo, Inc., Bottling Group, LLC, Frito-Lay North America, Inc., Quaker Sales and Distribution, Inc., and Muller Quaker Dairy, LLC hereby move for leave to appeal the Order of the Bankruptcy Court, entered January 2, 2020, denying their motion for summary judgment on Counts One through Four of the Debtors' Second Amended Complaint, pursuant to 28 U.S.C. § 158(a), and for such other and further relief as this Court deems just and proper.

PLEASE TAKE FURTHER NOTICE that pursuant to Federal Rule of Bankruptcy Procedure 8004(b)(2) and Local Civil Rule 6.1(b), opposition papers must be served within fourteen days after service hereof.

Dated: January 16, 2020

Respectfully submitted,

/s/ Jeffrey Chubak
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